

S.D.N.Y.–N.Y.C.  
12-cv-2656  
Nathan, J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 25<sup>th</sup> day of November, two thousand fourteen.

Present:

Robert A. Katzmann,  
*Chief Judge,*  
Ralph K. Winter,  
*Circuit Judge.*<sup>1</sup>

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In re A2P SMS Antitrust Litigation

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iSpeedbuy LLC, Club Texting, Inc., on behalf of itself  
and all others similarly situated, Textpower, Inc.,

*Plaintiffs - Appellees,*

v.

AT&T Mobility LLC, *et al.*,

*Defendants - Appellants,*

Ericsson IPX, SYBASE, Inc., *et al.*,

*Defendants,*

Open Market Inc.,

*Consolidated - Defendant.*

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14-2335 (L);  
14-2345 (con);  
14-2347 (con);  
14-2350 (con);  
14-2407 (con);  
14-2474 (con)

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<sup>1</sup> The Honorable Victor Marrero, of the United States District Court for the Southern District of New York, sitting by designation, was originally a member of this panel but recused himself from this case. The remaining two judges issue this order in accordance with Second Circuit Internal Operating Procedures E(b).

Appellees move to dismiss the consolidated appeals for lack of jurisdiction. Upon due consideration, it is hereby ORDERED that Appellees' motion is GRANTED and the appeals are DISMISSED. This Court has determined that the district court's order does not constitute an appealable order "denying a petition . . . to order arbitration to proceed" as contemplated under the Federal Arbitration Act, 9 U.S.C. § 16(a)(1)(B); *see Augustea Impb et Salvataggi v. Mitsubishi Corp.*, 126 F.3d 95, 98-99 (2d Cir. 1997).

FOR THE COURT

Catherine O'Hagan Wolfe, Clerk

The image shows a handwritten signature, "Catherine O'Hagan Wolfe", in black ink. The signature is written over a circular official seal of the United States Court of Appeals for the Second Circuit. The seal is blue and white with the text "UNITED STATES", "SECOND CIRCUIT", and "COURT OF APPEALS" around the perimeter. The signature is written in a cursive style, with the first name "Catherine" and last name "Wolfe" being prominent.